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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: KELLY, Daniel P.

DATE: April 9, 2004

SERIAL NO.: 09/771,782

GROUP ART UNIT: 1732

FILED: 29 January 2001

EXAMINER: Edmund H. Lee

FOR: "Sports Projectile Shaped Bead Necklace and Method of Manufacture"

Attorney Docket No.: A00219US (98361.3)

DECLARATION OF DANIEL P. KELLY

I, Daniel P. Kelly, am the inventor of the inventions claimed in the above-referenced patent application.

I was not aware before I invented the present invention of any necklaces with solid sports beads.

Since 2000 I have manufactured over 400,000 dozen sports necklaces as claimed in the present patent application. Over 80% of these have been sold so far. Sales are well over \$1.3 million. My licensee, Innovative Marketing, says that they have over 1,500 customers.

The method claimed in claims 37-45 and 47-49 allows the sports beads disclosed in the present application to be made easily and inexpensively. For example, a gross of the sports beads of the present invention can be made for about \$2.40 per gross, as opposed to about \$180.00 per gross for the hollow sports beads I sold prior to June 1999.

I have not advertised the sports beads disclosed in the present patent application more than I advertised the hollow sports beads I sold prior to June 1999. Sales of those beads averaged about \$240.00 per gross, for a total revenue of about \$10,000 per year from 1996 through 1999. Sales of my new beads disclosed in the present patent application and made by the method claimed in claims 37-45 and 47-49 have averaged about \$37.00 per gross, for a total revenue of about \$300,000 per year.

I am aware of many companies which are selling necklaces which I believe infringe claims of the above-referenced patent application. These companies include the following: Bead Sale, LLC, Fun Express, Inc., Oriental Trading Company, Inc., and Prime Master. I

believe that all of these companies copied my claimed necklaces (I understand that they buy these infringing necklaces from the same manufacturer in China (not my manufacturer, but another manufacturer which has copied my design)). I estimate that I have lost over \$150,000 in sales of my claimed sports necklaces to these companies and other infringers.

The undersigned hereby declares that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true, and that this statement is made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

4/7/2004
Date


Daniel P. Kelly

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